

BEFORE THE
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
STATE OF CALIFORNIA

In the Matter of:

HILARIO GUZMAN,
OWNER/OPERATOR, G&M GENERAL
MECHANICAL

Respondent.

Case No. 1212

OAH No. L2003040090

DECISION

This matter came on for hearing before Richard J. Lopez, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on May 8, 2003

Jody Z. Feldman, Staff Counsel, represented the complainant.

Respondent appeared in person and with the assistance of his son-in law Carlos Martinez, represented himself.

Oral and documentary evidence and evidence by way of official notice was received and the matter then argued and thereafter submitted.

The Administrative Law Judge now finds, concludes, and orders as follows:

FINDINGS OF FACT

1

This Complaint for Penalty (Complainant) is issued by the California Integrated Waste Management Board (CIWMB) a State Agency authorized by law to do so.

2

Hilario Guzman, individually and doing business as G&M General Mechanical, the Respondent herein, is a waste tire hauler.

Respondent, operator of G&M General Mechanical, is responsible for the transportation of waste tires by a person not holding a waste tire registration. The circumstances are follows:

On November 20, 2002, CIWMB staff, in concert with the California Highway Patrol (CHP) inspected all vehicles transporting waste tires into the BAS Facility located 1400 N. H Street, San Bernardino, California. After a time the operation was moved to the American Tire Disposal Facility (ATD), located at 1495 N. 8th Street, Colton, California. This facility had been the major final destination for waste tires in the San Bernardino area but had recently ceased operations.

CIWMB inspectors arrived at this location at approximately 11:15 a.m. A brown Chevrolet pickup truck, California license plate number 3B51684, left the driveway of the ATD facility onto N. 8th Street loaded with approximately 50 waste tires. The truck's driver, Crispin Guzman, Respondent's brother, was asked to produce a valid waste tire registration and manifest for the tires he was transporting. Crispin Guzman gave the inspector a CIWMB manifest, #72423. Crispin Guzman did not provide documentation to show he had a current CIWMB Waste Tire Hauler Registration. The manifest did to have a valid waste tire hauler vehicle registration recorded on the document. There was no exemption to registration or provided for in *Public Resources Code (PRC) §42954*.

Respondent had been a registered CIWMB hauler in 1999 and 2001. Accordingly, he was aware of the need for registration. He did not apply for registration in 2002. The conduct set forth in Finding 3 was a single act on a single day. There is not history or pattern of like conduct. Respondent, recently, has made application for registration.

CONCLUSIONS OF LAW

The CIWMB has authority to regulate and conduct enforcement actions regarding Waste Tire Haulers within the State of California under *Public Resources Code (PRC) §§42950 et seq.* and attendant regulations contained in *Title 14 of the California Code of Regulations(CCR)*.

The CIWMB's authority to assess civil penalties against Respondent as a waste tire hauler, is set forth *PRC§42962*, which states:

"(a) Any person who intentionally or negligently violates any provision of this chapter, or any permit, rule regulation, standard, or requirement issued or adopted pursuant to this chapter is liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) for each violation of a separate provision or, for continuing violations, for each day that violation continues... (b) In addition to the civil penalty which may be imposed pursuant to subdivision (a), the board may impose civil penalties administratively in an amount not to exceed five thousand dollars (\$5,000.00) for each separate violation of a separate provision or for continuing violations for each day that violation continues, for any person who intentionally or negligently violated any permit, rule, regulation, standard, or requirement issued adopted pursuant to this chapter...."

Cause exists to assess a civil penalty pursuant to *Public Resources Code §42962* in that, by reason of Finding 3, Respondent was not a registered hauler and was in violation of *Public Resources Code §42951(a)* for hauling waste tires on a public road without a valid registration.

4

In assessing the amount of the civil penalty consideration has been given to the factors set forth in Finding 4.

5

Cause exists to impose a civil penalty in the amount of \$ 1,000 against Respondent by reason of the whole of the Findings of Fact and Conclusions of Law.

ORDER

1

Hilario Guzman shall pay, within ninety (90) days of the effective date of this Decision, the sum of \$1000 as a civil penalty, to CIWMB at its Sacramento address.

Dated: June 2, 2003

Original signed by

RICHARD J. LOPEZ
Administrative Law Judge
Office of Administrative Hearings

RJL: lp